

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION

IN RE:)	Chapter 11
)	
EASTERN LIVESTOCK CO., LLC,)	Case No. 10-93904-BHL-11
)	
Debtor.)	Hon. Basil H. Lorch III

**MOTION FOR ORDER APPROVING PROPOSED AUCTION SALE OF CERTAIN
PERSONAL PROPERTY ASSETS OF DEBTOR FREE AND CLEAR OF LIENS,
CLAIMS AND ENCUMBRANCES PURSUANT TO 11 U.S.C. § 363**

James M. Knauer, chapter 11 trustee ("Trustee") in the above-captioned case ("Chapter 11 Case"), seeks the entry of an order, pursuant to section 363 of title 11 of the United States Code (the "Bankruptcy Code") authorizing the Trustee to sell the personal property assets of Eastern Livestock Co., LLC ("Debtor") pursuant to the terms and conditions of the auction agreement (the "Auction Agreement") with Norman J. Gallivan, Inc. ("Gallivan") attached as Exhibit A. In support of the motion (the "Motion"), the Trustee respectfully represents as follows:

1. The Court has jurisdiction to consider this matter pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. §157(b)(2). Venue is proper before this court pursuant to 28 U.S.C. §§ 1408 and 1409.
2. The statutory predicates for the relief requested herein are section 363(b) of the Bankruptcy Code and Rules 2002 and 6004 of the Federal Rules of Bankruptcy Procedure.
3. The Debtor owns the items of personal property listed on attached Exhibit B (collectively, the "Personal Property")¹. The Personal Property is primarily located at Debtor's

¹ The Personal Property does not include all personal property assets of Debtor.

primary business office, which is commonly known as 135 West Market Street, New Albany, Indiana 47150 (the "Real Estate").

4. The Trustee and Republic Bank & Trust Company ("Republic") are parties to a month-to-month lease (the "Lease") by which the Trustee continues to occupy the Real Estate. (See Dock. No. 685). Pursuant to the terms of the Lease, Republic may terminate the Lease upon thirty (30) days written notice to the Trustee.

5. The Trustee believes, in his business judgment, that an auction sale of some or all of the Personal Property pursuant to the terms and conditions of the Auction Agreement will result in the greatest recovery for Debtor's estate. The Trustee reserves the right to remove items from the Personal Property to be sold.

6. Gallivan is duly qualified to conduct an auction sale of the Personal Property.

7. Because the Lease may be terminated on thirty (30) days notice, the Trustee seeks authority to conduct an auction twenty (20) days after filing a notice with this Court that states the date of the proposed auction. Allowing the Trustee to conduct an auction on twenty (20) days' notice pursuant to the terms of the Auction Agreement will allow the Trustee to sell the Personal Property for the highest value while avoiding the costs of moving such Personal Property to an alternate location.

8. Accordingly, the Trustee hereby requests authority to (i) hire Gallivan pursuant to the terms of the Auction Agreement (a separate employment application is being filed contemporaneously herewith) and (ii) sell some or all of the Personal Property upon twenty (20) days publication notice free and clear of any and all liens, claims and encumbrances, outside the ordinary course of its business, pursuant to section 363(b) of the Bankruptcy Code and Rules 2002 and 6004 of the Federal Rules of Bankruptcy Procedure.

WHEREFORE, the Trustee respectfully requests that the Court enter an order in the form attached hereto (i) authorizing the Trustee to enter into the Auction Agreement and sell some or all of the Personal Property free and clear of all liens, claims and encumbrances, with all liens, claims and encumbrances to attach to the proceeds of the sale; and (ii) granting such other and further relief as this Court deems just.

Respectfully submitted,

By: /s/ Dustin R. DeNeal

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CERTIFICATE OF SERVICE

I hereby certify that on October 20, 2011, a copy of the foregoing pleading was filed electronically. Notice of this filing will be sent to the following parties through the Court's Electronic Case Filing System. Parties may access this filing through the Court's system.

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I further certify that on October 20, 2011, a copy of the foregoing pleading was served via electronic mail transmission on the following:

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